

Reply to Office Action of: September 27, 2004

REMARKS/ARGUMENTS

Claim 1 has been canceled.

Claims 2 and 3 remain in the case.

In the last Office Action, the Examiner rejected former Claim 1 under both Section 102 and Section 103.

The 102 rejection relied on the Zenger patent 1,595,441. The present claims distinguish over Zenger because the present claims contained limitations not present in the Zenger. More specifically, the present claims recite that the squeaker is separate from the outer wall. Furthermore, the present claims recite that the inner ball is free floating within the outer ball. Neither of these features are taught by Zenger.

The 103 rejection relied on the Handelsman patent 6,112,703 modified in view of the Daasch patent 1,668,143. More specifically, the Examiner alleged that the Handelsman patent contained all the elements of former Claim 1 except for the air hole in the outer wall. The Examiner alleged that it would have been obvious to incorporate the air hole of Daasch into the structure of Handelsman. Applicant argues that there is no basis or motivation in the prior art for placing the Daasch air hole into the structure of Handelsman. Handelsman teaches the concept of a semirigid shell with at least one large access hole in the shell. The flexible bladder is partially inserted into the shell through the access hole. The portion of the flexible bladder carrying the squeaker is positioned within the semirigid shell and protected by the semirigid shell. The other portion of the flexible bladder is positioned outside of the semirigid shell and the access hole so that that portion of the bladder is not protected by the semirigid shell and is accessible to the pet. There is no suggestion that the structure of

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10/606,156

Reply to Office Action of: September 27, 2004

Handelsman would benefit from or require the air hole of Daasch, particularly because the access hole is specifically provided.

In addition to this distinction, the new claims include limitations that would not be obvious from the combination suggested by the Examiner. The new claims specifically recite that the outer wall is formed of a flexible elastomer. This is a totally different concept from the semirigid protective shell taught by the Handelsman patent. The new claims also specifically recite that the inner ball is entirely within the outer ball. The Handelsman patent specifically teaches that the bladder is partially inside and partially outside the semirigid shell, to allow the pet to squeeze a portion of the latter and actuate the squeaker. If the bladder were entirely within the semirigid shell, then the pet would not be able to actuate the squeaker. Furthermore, the new claims specifically recite that the inner ball is free floating within the outer ball. The Handelsman patent teaches that the bladder is positionally locked in the access port with part of the bladder inside the semirigid shell and part of the bladder outside the semirigid shell. Therefore, the bladder is not free floating within the shell.

In view of the above amendments and remarks, it appears that the present application is in condition for Notice of Allowance. Such further and favorable action is requested.

Respectfully submitted,
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